

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7025

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL ANTHONY JENKINS, a/k/a Domonique
Jenkins, a/k/a Todd Jenkins, a/k/a Tone,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. J. Calvitt Clarke, Jr., Senior
District Judge. (CR-93-81-N)

Submitted: January 23, 1997

Decided: February 6, 1997

Before RUSSELL, WILKINS, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Anthony Jenkins, Appellant Pro Se. William David Muhr,
OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Michael Anthony Jenkins filed an untimely notice of appeal. We dismiss for lack of jurisdiction. The time periods for filing notices of appeal are governed by Fed. R. App. P. 4. These periods are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). The district court may, upon a showing of excusable neglect, extend by thirty days the time for filing a notice of appeal. See United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985). Under Houston v. Lack, 487 U.S. 266 (1988), the notice is considered filed as of the date Appellant delivered it to prison officials for forwarding to the court.

The district court entered its order on May 1, 1996. However, upon Jenkins's motion, the court extended the time to file a notice of appeal to June 14, 1996. The record discloses that Jenkins did not relay his notice of appeal to prison officials for mailing until June 21, 1996. Jenkins's failure to note an appeal within the permissible extension period leaves this court without jurisdiction to consider the merits of his appeal. We therefore dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED